

TRANSCRIPT OF 3/17/2022 SEALED PROCEEDINGS

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHASOM BROWN, MARIA NGUYEN, AND) C-20-03664 YGR
WILLIAM BYATT, INDIVIDUALLY AND)
ON BEHALF OF ALL SIMILARLY) SAN JOSE, CALIFORNIA
SITUATED,)
PLAINTIFF,) MARCH 17, 2022
VS.) PAGES 1-15
GOOGLE LLC AND ALPHABET INC.,) **SEALED PROCEEDINGS**
DEFENDANTS.)

TRANSCRIPT OF SEALED ZOOM PROCEEDINGS
BEFORE THE HONORABLE SUSAN VAN KEULEN
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFFS: SUSMAN & GODFREY
BY: AMANDA K. BONN
1900 AVENUE OF THE STARS, SUITE 1400
LOS ANGELES, CALIFORNIA 90067

BY: ALEXANDER P. FRAWLEY
RYAN SILA
1301 AVENUE OF THE AMERICAS, 32ND FLOOR
NEW YORK, NEW YORK 10019

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

1 APPEARANCES (CONTINUED)

2 FOR THE PLAINTIFFS:

BOIES SCHILLER FLEXNER LLP

BY: MARK C. MAO

3 BEKO REBLITZ-RICHARDSON

44 MONTGOMERY STREET, 41ST FLOOR

4 SAN FRANCISCO, CALIFORNIA 94104

5 BY: ROSSANA BAEZA

100 SE 2ND STREET, SUITE 2800

6 MIAMI, FLORIDA 33130

7 MORGAN & MORGAN

BY: JOHN A. YANCHUNIS

8 201 N. FRANKLIN STREET, 7TH FLOOR

TAMPA, FLORIDA 33602

9
10 FOR THE DEFENDANTS:

QUINN EMANUEL URQUHART & SULLIVAN

BY: ANDREW H. SCHAPIRO

11 191 N. WACKER DRIVE, SUITE 2700

12 CHICAGO, ILLINOIS 60606

13 BY: VIOLA TREBICKA

STEPHEN A. BROOME

14 MARIE HAYRAPETIAN

ALY OLSON

15 865 S. FIGUEROA STREET, 10TH FLOOR

16 LOS ANGELES, CALIFORNIA 90017

17 BY: JOSEF ANSORGE

1300 I. STREET, N.W., SUITE 900

18 WASHINGTON, D.C. 20005

19 BY: BRETT WATKINS

711 LOUISIANA STREET, SUITE 500

20 HOUSTON, TEXAS 77002

21 BY: JOMAIRE A. CRAWFORD

DONALD SETH FORTENBERY

22 51 MADISON AVENUE

23 NEW YORK, NEW YORK 10010

24 ALSO PRESENT:

DOUGLAS BRUSH

25 TIMOTHY SCHMIDT

SEALED PROCEEDINGS

3

1 SAN JOSE, CALIFORNIA

MARCH 17 2022

2 P R O C E E D I N G S

3 (SEALED ZOOM PROCEEDINGS CONVENED AT 10:08 A.M.)

4 THE CLERK: PLEASE COME TO ORDER, THE HONORABLE
5 SUSAN VAN KEULEN PRESIDING.

6 THE COURT: GOOD MORNING, EVERYONE. WELCOME TO OUR
7 SPECIALLY SET DISCOVERY MATTER THIS MORNING.

8 WE'VE GOT BOTH BROWN AND CALHOUN ON CALENDAR. WE'LL START
9 WITH BROWN, SO WE'LL GET APPEARANCES AS SOON AS MS. FANTHORPE
10 CALLS THE CASE, AND GET TO WORK.

11 THE CLERK: YES. CALLING CASE 20-CV-3664, BROWN, ET
12 AL, VERSUS GOOGLE, LLC, ET AL.

13 COUNSEL, PLEASE IDENTIFY YOURSELVES FOR THE RECORD,
14 BEGINNING WITH PLAINTIFF.

15 MS. BONN: GOOD MORNING, YOUR HONOR.

16 AMANDA BONN WITH SUSMAN GODFREY ON BEHALF OF THE BROWN
17 PLAINTIFFS.

18 ALSO ON THE LINE FROM SUSMAN GODFREY ARE MY COLLEAGUES,
19 ALEX FRAWLEY AND RYAN SILA.

20 AND THEN I'LL TURN IT OVER TO MR. MAO TO INTRODUCE HIMSELF
21 AND HIS COLLEAGUES AT BOIES SCHILLER.

22 THE COURT: THANK YOU, MS. BONN.

23 MR. MAO: GOOD MORNING, JUDGE, AND COUNSEL.

24 I APOLOGIZE AGAIN. I HAVE A HEADSET ON NOT BECAUSE IT'S
25 FASHIONABLE, BUT BECAUSE MS. BONN AND I ARE ACTUALLY IN THE

SEALED PROCEEDINGS

4

1 SAME ROOM.

2 THE COURT: AH. SO WE'RE GETTING FEEDBACK, SO YOU
3 ALL NEED TO --

4 MR. MAO: CAN YOU MUTE YOURSELF?

5 THE COURT: -- SPREAD OUT A LITTLE BIT. THERE YOU
6 GO.

7 MR. MAO: YES. SO THIS IS MARK MAO FROM
8 BOIES SCHILLER APPEARING FOR THE BROWN PLAINTIFFS.

9 I BELIEVE WITH ME ON THE LINE ARE ALSO ROSSANA BAEZA, I
10 THOUGHT MY COLLEAGUE, BEKO -- OH, BEKO RICHARDSON, AND
11 MS. ERIKA NYBORG-BURCH ARE ALSO ON.

12 AND I DO BELIEVE THAT WE HAVE OTHER COLLEAGUES WHO ARE
13 ATTENDING WHO ARE NOT ARGUING, INCLUDING ALEX FRAWLEY OF
14 SUSMAN GODFREY.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 AND WE ALSO HAVE MR. RYAN SILA OVER AT SUSMAN GODFREY
19 APPEARING FOR THE BROWN PLAINTIFFS.

20 I HOPE I DIDN'T LEAVE ANYONE OUT.

21 AND OF COURSE WE HAVE MR. JOHN YANCHUNIS, WHO WILL BE
22 ARGUING AS WELL THIS MORNING.

23 MR. YANCHUNIS: GOOD MORNING, YOUR HONOR. THANK YOU.

24 THE COURT: GOOD MORNING, MR. YANCHUNIS. THANK YOU.

25 ANYONE ELSE FOR PLAINTIFFS? DID WE COVER EVERYONE? IT

SEALED PROCEEDINGS

5

1 APPEARS SO.

2 ALL RIGHT. FOR DEFENDANT?

3 MR. SCHAPIRO: GOOD MORNING, YOUR HONOR. I'LL GO
4 THROUGH THIS.

5 I'M ANDREW SCHAPIRO FOR GOOGLE FROM THE QUINN, EMANUEL
6 FIRM, AND WE HAVE A NUMBER -- A NUMBER OF PEOPLE HERE, SOME OF
7 WHOM ARE NOT NECESSARILY GOING TO BE SPEAKING. BUT BECAUSE
8 THIS IS SEALED, IN CASE QUESTIONS COME UP AND WE COULDN'T --
9 THEY COULDN'T NECESSARILY BE WATCHING, SO THEY'RE HERE.

10 SO JOINING US TODAY ARE MY COLLEAGUE STEVE BROOME -- I
11 MIGHT ASK THE PEOPLE TO TURN ON THEIR CAMERA BRIEFLY WHEN I SAY
12 YOUR NAMES -- VIOLA TREBICKA, BRETT WATKINS,
13 JOMAIRE CRAWFORD -- THIS IS FOR BOTH MATTERS, YOUR HONOR.

14 THE COURT: THAT'S FINE. THANK YOU.

15 MR. SCHAPIRO: JOSEPH ANSORGE, SARA JENKINS.

16 HOLD ON HERE.

17 THEN WITH YOUR, WITH YOUR PERMISSION, YOUR HONOR,
18 SETH FORTENBERY HAS NOT -- HE'S ONE OF OUR YOUNG ASSOCIATES WHO
19 HAS NOT YET GOTTEN HIS APPEARANCE, OR HIS PRO HAC VICE PAPERS
20 IN. IF YOU AND THE PLAINTIFFS HAVE NO OBJECTION, HE WILL BE
21 PRESENT. I DON'T KNOW WHETHER HIS ISSUE IS ACTUALLY GOING TO
22 COME UP.

23 THE COURT: OKAY. THANK YOU.

24 WELCOME, MR. FORTENBERY.

25 MR. SCHAPIRO: AND MARIE HAYRAPETIAN, ALY OLSON, AND

SEALED PROCEEDINGS

6

1 THEN I DON'T KNOW IF SHE HAS BEEN LET IN YET BECAUSE SHE WASN'T
2 ON THE LIST, BUT TRACY GAO, G-A-O, I THINK IS GOING TO BE
3 JOINING, TOO.

4 SO I WOULD ASK YOUR COURTROOM DEPUTY, IF YOU SEE THAT NAME
5 POP UP, SO PLEASE LET HER IN.

6 I DON'T KNOW IF I'VE FORGOTTEN ANYONE. THERE'S A LOT OF
7 PEOPLE, SO IF I HAVE FORGOTTEN ANYONE, PLEASE, WHOEVER YOU MAY
8 BE, SPEAK UP.

9 THE CLERK: YOUR HONOR, I APOLOGIZE FOR INTERRUPTING,
10 BUT THE WEBINAR IS LOCKED, SO PEOPLE CAN'T JOIN. IF SHE'S NOT
11 HERE ALREADY, I WOULD HAVE TO UNLOCK IT TO ADMIT HER.

12 MR. SCHAPIRO: WHATEVER IS BEST.

13 IT WAS OUR FAULT, YOUR HONOR. WE CAN COMMUNICATE WITH HER
14 BY CHAT. SHE WASN'T GOING TO BE ARGUING ANYTHING.

15 OR IF IT'S EASY TO DO, GREAT.

16 I APOLOGIZE FOR THAT.

17 THE COURT: THAT'S ALL RIGHT.

18 LET'S GO AHEAD AND PROCEED.

19 SO THAT IS THE PLAINTIFFS AND DEFENDANTS.

20 WE ALSO HAVE THE SPECIAL MASTER HERE TODAY.

21 SPECIAL MASTER BRUSH IS JOINING US.

22 SPECIAL MASTER, IF YOU'LL TURN ON YOUR CAMERA. THANK YOU.

23 AND IS MR. SCHMIDT WITH US AS WELL? THERE HE IS.

24 EXCELLENT.

25 THANK YOU BOTH FOR BEING HERE. I APPRECIATE IT.

SEALED PROCEEDINGS

7

1 I WILL AGAIN MAKE IT CLEAR ON THE RECORD THAT AT THE
2 REQUEST OF THE PARTIES AND ORDER OF THE COURT, THESE
3 PROCEEDINGS ARE SEALED. MOST OF THE FILINGS, IF NOT ALL THE
4 FILINGS, LEADING UP TO TODAY'S PROCEEDINGS HAVE BEEN UNDER
5 SEAL, AS THEY DO REFLECT CONFIDENTIAL INFORMATION.

6 ALL RIGHT. WE'RE GOING TO START WITH THE BROWN MATTER.

7 AND I DID WORK THROUGH A NUMBER OF THE ISSUES THAT WERE
8 SUBMITTED, AND YOU HAVE RECEIVED MY ORDER NUMBER 1 ON THOSE
9 MATTERS, AND I JUST HAVE A COUPLE OF THINGS THAT I WANT TO
10 ADDRESS IN BROWN TODAY.

11 SINCE -- AND THIS GOES FOR BOTH CASES.

12 SINCE ISSUING MY ORDER NUMBER 1, I HAVE CONTINUED TO WORK
13 ON THESE ISSUES, AND A NUMBER OF MY DECISIONS WILL BE REFLECTED
14 IN ORDER NUMBER 2.

15 AND I WILL NOT -- I DON'T NEED ARGUMENT ON THOSE ISSUES.

16 SO IF I'M PASSING BY ISSUES, IT'S NOT THAT YOU'RE NOT
17 GOING TO GET A RULING, IT'S THAT I'M -- I'VE ALREADY MADE A
18 DECISION WITH REGARDS TO IT.

19 SO WE WILL PROCEED WITH ARGUMENT WHERE I THINK IT WILL BE
20 HELPFUL.

21 AND SO WE WILL START WITH BROWN, AND WE'RE ON ISSUE P22 IN
22 THE CHART, ISSUE P22 WHERE I HAD ASKED -- THE OPEN ISSUE THERE
23 STILL IS WHETHER OR NOT THERE SHOULD BE A FURTHER 30(B)(6)
24 DEPOSITION ON CERTAIN MAYBE CHROME INCOGNITO ISSUES, AND AS I
25 UNDERSTAND IT, THE PLAINTIFFS HAVE ASKED FOR A FURTHER

SEALED PROCEEDINGS

8

1 DEPOSITION, MAKING THE ARGUMENT THAT THE PROFFERED WITNESSES
2 DID NOT COVER CERTAIN ASPECTS, OR WERE NOT PREPARED TO TESTIFY
3 ON CERTAIN SPECIFIC ISSUES; OR ALTERNATIVELY, THE PLAINTIFFS
4 HAVE PROPOSED A STIPULATION TO CERTAIN FACTS.

5 AND GOOGLE OPPOSES THAT, EITHER A DEPO -- THEY HAVE
6 OFFERED TO DESIGNATE TESTIMONY.

7 I ASKED THE PARTIES FOR THE PROPOSED STIPULATION, WHICH I
8 DID RECEIVE AND READ THROUGH.

9 SO HERE IS MY RULING ON THIS ISSUE, WHICH IS TOPICS 1
10 THROUGH 6 ARE APPROPRIATE EITHER FOR -- WELL -- AND WE'LL GO
11 BACK AND ADDRESS THEM SPECIFICALLY, BUT 1 THROUGH 6 ARE
12 APPROPRIATE FOR TESTIMONY IN SOME FORM; AND TOPICS 7 THROUGH 12
13 WILL BE STRICKEN.

14 SO WITH THAT IN MIND, TOPIC 1 I THINK IS -- APPEARS TO BE
15 APPROPRIATE AS WRITTEN.

16 TOPICS 2 AND 3 REFER TO CHANGES IN THE FIELD NAME AND ASK
17 FOR DATES OF THOSE CHANGES. AND, AGAIN, THIS WOULD BE A PMK,
18 SO I DON'T KNOW IF A SPECIFIC DATE IS AVAILABLE OR IS
19 REASONABLE TO DISCERN, OR IF IT'S AN ESTIMATED DATE OR
20 TIMEFRAME, SOMETHING MORE SPECIFIC THAN, YOU KNOW, SOME NUMBER
21 OF YEARS.

22 BUT WITH THAT QUALIFICATION AROUND DATE, TOPICS 2 AND 3
23 ARE APPROPRIATE.

24 TOPIC 4 ASKS FOR AN IDENTIFICATION OF DATA SOURCES, AS
25 WELL AS THE DATE WHEN THOSE FIELDS WERE IN THE DATA SOURCES,

SEALED PROCEEDINGS

9

1 AND I WANT TO HEAR FROM GOOGLE ON THAT, AND PERHAPS FROM THE
2 SPECIAL MASTER.

3 AND THEN GOOGLE FILED -- EXCUSE ME.

4 QUESTION 5 IS FOR IDENTIFICATION OF SOMEONE WHO MADE A
5 DECISION, AND MAYBE THAT'S ONE PERSON, MAYBE IT'S NOT. BUT
6 IT'S NOT AN INAPPROPRIATE QUESTION.

7 AND THEN TOPIC 6, IT'S APPROPRIATE TO CERTAINLY EXPLORE A
8 RELATIONSHIP BETWEEN A DASHBOARD AND THE FIELD, AND THAT CAN
9 BE -- THAT CERTAINLY IS NOT A -- WELL, THAT APPEARS TO BE AN
10 APPROPRIATE TOPIC.

11 SO WITH THAT IN MIND AND THOSE CAVEATS IN MIND, I WOULD
12 PUT IT TO GOOGLE THAT THEY CAN ACCEPT THE STIP.

13 IF THERE IS SPECIFIC TESTIMONY, SPECIFIC TESTIMONY FROM A
14 PREVIOUS WITNESS THAT ANSWERS ONE OF THESE QUESTIONS, THAT CAN
15 BE DESIGNATED.

16 BUT THERE SEEMS TO BE SOME DISPUTE OVER THE DESIGNATIONS,
17 AND OBVIOUSLY I HAVEN'T SEEN THOSE, AND I DON'T NEED TO SEE
18 THOSE. I THINK YOU HAVE ENOUGH DIRECTION.

19 OR, ALTERNATIVELY, GOOGLE CAN PROVIDE A WITNESS ON THESE
20 TOPICS.

21 LET'S DRILL DOWN FOR A MOMENT ON TOPIC 4 AND THE
22 IDENTIFICATION OF DATA SOURCES WHERE THE FIELD HAS BEEN
23 IMPLEMENTED.

24 AND I'M -- THE TOPIC IS FOR IDENTIFICATION OF DATA
25 SOURCES, AND IS THAT -- HAS THAT BEEN DONE THROUGH THE PROCESS

SEALED PROCEEDINGS

10

1 BEFORE THE SPECIAL MASTER? OR CAN THAT BE DONE? OR WHAT IS
2 GOOGLE'S POSITION WITH REGARDS TO TOPIC 4?

3 MR. ANSORGE: YES, YOUR HONOR.

4 OUR UNDERSTANDING IS THAT THIS HAS BEEN PROVIDED.

5 AND I WANT TO MAKE SURE I'M LOOKING AT THE RIGHT TOPIC.
6 THIS IS THE FOLLOWING TABLE IDENTIFIES ALL GOOGLE DATA SOURCES,
7 INCLUDING LOGS FOR THE MAYBE_CHROME_INCOGNITO FIELD HAS BEEN
8 IMPLEMENTED?

9 THE COURT: THAT'S RIGHT.

10 MR. ANSORGE: THAT'S THE PARTICULAR TOPIC?

11 THE COURT: YES.

12 MR. ANSORGE: AND THE BERT LEUNG DEPOSITION THAT TOOK
13 PLACE ON THE 4TH OF MARCH EXPLICITLY WAS FOCUSED ON
14 MAYBE_CHROME_INCOGNITO FIELD AND SOURCES IMPLEMENTED, AS WAS
15 THE MANDY LIU DEPOSITION THAT TOOK PLACE ON THE MONDAY
16 AFTERWARDS.

17 SO THIS IS SOMETHING THAT HAS ALREADY BEEN PROVIDED, BUT
18 WE COULD ALSO PROVIDE IT IN THE STIPULATED FORM IF THAT'S
19 HELPFUL.

20 THE COURT: OKAY. SO THE DATA SOURCES AND DATES HAVE
21 BEEN PROVIDED AS REQUESTED IN NUMBER 4?

22 MR. ANSORGE: WELL, THE DATES HAVE NOT BEEN PROVIDED.

23 I BELIEVE THAT SOME OF THE DOCUMENTS WHICH THE PLAINTIFFS
24 USED FOR MANDY LIU'S DEPOSITION SHOWED THAT THERE ARE CHANGES
25 THAT WERE MADE IN FEBRUARY 2022, BECAUSE SOME OF THESE ARE VERY

SEALED PROCEEDINGS

11

1 RECENT PRODUCTIONS, AND THERE THE SPECIFIC DATES HAVE NOT BEEN
2 PROVIDED IN THAT FORMAT.

3 I WOULD SAY THAT THE UNDERLYING DOCUMENTATION THAT'S BEEN
4 PRODUCED SHOWED THE DATES.

5 BUT WE WOULD BE HAPPY TO WORK WITH PLAINTIFFS TO HAVE THAT
6 IN THE STIPULATION, AND WE THINK THAT'S MORE EFFECTIVE AND
7 EFFICIENT THAN ANOTHER 30(B)(6) DEPOSITION FOR THE REASON, YOUR
8 HONOR, THAT THE PERSON WHO WOULD BE DESIGNATED FOR THESE TOPICS
9 IS BERT LEUNG, WHO PLAINTIFFS ALREADY DEPOSED FOR SEVEN HOURS
10 ON THE 4TH OF MARCH.

11 THE COURT: UM-HUM. ALL RIGHT.

12 THEN AS I SAY, TOPICS 1 THROUGH 6 ARE APPROPRIATE AND CAN
13 PROCEED EITHER BY STIPULATION OR BY FURTHER DEPOSITION.

14 MR. ANSORGE: UNDERSTOOD.

15 THE COURT: ALL RIGHT. AND, GOOGLE, YOU ARE TO LET
16 PLAINTIFFS KNOW WHETHER YOU'LL DO THE STIP OR FURTHER DEPO BY
17 TOMORROW. THAT'LL BE 3-18.

18 OOPS, WRONG PEN. THERE WE GO.

19 MS. BONN: YOUR HONOR, WE HAD ONE QUESTION ABOUT THIS
20 TOPIC AND THE CHART.

21 I THINK I UNDERSTOOD WHAT WAS IN THE ORDER, BUT WE'VE NOW
22 DISCOVERED THAT THERE ARE TWO ADDITIONAL FIELDS,
23 IS_CHROME_NON_INCOGNITO AND IS_CHROME_INCOGNITO, AND HAVE
24 SIMILAR QUESTIONS ABOUT THOSE SOURCES AND IF THERE ARE OTHER
25 SOURCES WITHOUT INCOGNITO.

1 I UNDERSTOOD YOUR HONOR'S ORDER TO BE DIRECTING US TO THE
2 SPECIAL MASTER, BUT PART OF OUR DISPUTE IS ALSO THAT WE WANT A
3 30(B)(6) ON WHATEVER OTHER SOURCES MAY HAVE THIS INCOGNITO
4 FIELD.

5 AND I WASN'T SURE IF YOUR CHART --

6 THE COURT: YOU'RE NOT GOING TO GET A DEPO ON EVERY
7 SOURCE WITH INCOGNITO FIELD. I APPRECIATE A LOT OF THIS
8 MATERIAL HAS COME TO LIGHT MORE RECENTLY.

9 WE ARE OBVIOUSLY PAST THE CLOSE OF DISCOVERY. WE ARE
10 GOING TO CLEAN UP OPEN ISSUES, AND THAT -- YOU KNOW, THAT'S
11 GOING TO TAKE A LITTLE MORE TIME.

12 BUT THIS IS THE ISSUE THAT WAS RIPE AND PRESENTED WITHIN A
13 WEEK OF THE CLOSE OF DISCOVERY PER THE RULES, AND THAT'S THE
14 ISSUE I'VE RULED ON.

15 THERE CONTINUES TO BE PRODUCTIONS AND MATERIAL FROM THE
16 SPECIAL MASTER, AND MY RULINGS ON THESE ISSUES BEFORE ME DO NOT
17 FORECLOSE THE CONTINUED PRODUCTION OF DATA THAT IS CONTINUING
18 THROUGH THE SPECIAL MASTER PROCESS, CONTINUING, BUT COMING TO A
19 CLOSE VERY QUICKLY.

20 ALL RIGHT?

21 MS. BONN: THANK YOU, YOUR HONOR.

22 THE COURT: OKAY. SO THAT IS THE P22 ISSUE THAT WAS
23 OPEN, AND I BELIEVE I HAD RULED ON THE OTHER ISSUES IN THE
24 BROWN CHART.

25 LET'S TURN TO BROWN EXHIBIT A. I HAVE WORKED THROUGH

SEALED PROCEEDINGS

13

1 THOSE. I'M JUST LOOKING TO SEE IF I HAD ANY OPEN ISSUES. LET
2 ME JUST CHECK QUICKLY.

3 (PAUSE IN PROCEEDINGS.)

4 THE COURT: I WANTED TO JUST TOUCH ON GOOGLE'S
5 PROPOSED COMPROMISE POSITION WITH REGARDS TO RFP 193, 193,
6 GOOGLE'S PROPOSED COMPROMISE IN WHICH GOOGLE SAYS THAT IT IS
7 WILLING TO DISCUSS PRODUCTION OF DOCUMENTS RELATED TO [REDACTED]
8 EXPERIMENTS.

9 PLAINTIFFS IDENTIFY SPECIFIC EXPERIMENTS THAT THEY BELIEVE
10 ARE RESPONSIVE TO THE REQUEST.

11 WHAT'S THE BASIS FOR THAT PROPOSAL?

12 LET ME HEAR FROM GOOGLE, AND THEN LET ME HEAR FROM
13 PLAINTIFFS BRIEFLY.

14 MS. JENKINS: YES, YOUR HONOR.

15 SO WE DID NOT HEAR ANYTHING ABOUT REQUEST FOR DOCUMENTS --

16 THE COURT: MS. JENKINS, EXCUSE ME, JUST ONE SECOND.

17 I KNOW WHO YOU ARE BECAUSE WE'RE ON VIDEO AND I SEE YOUR
18 NAME.

19 I DO WANT EVERYONE TO IDENTIFY THEMSELVES BEFORE SPEAKING
20 SINCE THIS PROCEEDING IS BEING RECORDED.

21 MS. JENKINS: YES, OF COURSE. SORRY, YOUR HONOR.

22 SARA JENKINS FOR GOOGLE.

23 WE HAD NOT HEARD ANY REQUESTS FOR DOCUMENTS RELATED TO
24 [REDACTED] UNTIL AFTER THE CLOSE OF DISCOVERY IN THIS MATTER.

1 [REDACTED] IT IS BEYOND THE SCOPE OF, OF THIS CASE. IT GOES
2 INTO EVERYTHING UNDER THE ALPHABET NAME.

3 IT IS NOT SOMETHING WHERE WE HAVE BEEN LOOKING FOR
4 RESPONSIVE DOCUMENTS.

5 TO THE EXTENT THAT ANY EXPERIMENTS HAD BEEN DONE IN [REDACTED]
6 THAT ARE RELEVANT TO THIS CASE, THEY WOULD HAVE BEEN DISCUSSED
7 IN THE EMAILS AND OTHER NON-CUSTODIAL DOCUMENTS THAT WE HAVE
8 PRODUCED.

9 WE'RE NOT AWARE OF ANY EXPERIMENTS ON THE ISSUES DIRECTLY
10 RELATED TO RFP 193 THAT ARE IN [REDACTED].

11 SO IF PLAINTIFFS HAVE FOUND SOMETHING THAT THEY BELIEVE
12 SHOWS THAT THERE WAS AN EXPERIMENT THAT IS RESPONSIVE TO THIS
13 REQUEST, WE'RE WILLING TO TALK TO THEM ABOUT IT AND LOOK INTO
14 [REDACTED] AND SEE WHAT'S THERE, AND IF THERE IS -- IF THERE ARE
15 DOCUMENTS THAT WE CAN PRODUCE, WE ARE WILLING TO DO THAT.

16 THE COURT: ALL RIGHT.

17 PLAINTIFFS' RESPONSE?

18 MS. BONN: YES, YOUR HONOR. MS. BAEZA WILL BE
19 ADDRESSING THIS.

20 THE COURT: THANK YOU.

21 MS. BAEZA: YES, YOUR HONOR.

22 WE BELIEVE THAT ANY [REDACTED] EXPERIMENTS THAT TOUCH ON
23 INCOGNITO MODE OR ADS GENERALLY THAT WOULD BE RESPONSIVE TO
24 THIS REQUEST -- OUR REQUEST FOR [REDACTED] EXPERIMENTS IS NOT A NEW
25 REQUEST. WE SERVED THIS MONTHS AGO, AND THIS SHOULD HAVE BEEN

1 SERVED MONTHS AGO.

2 THE ISSUE THAT WE'RE DEALING WITH NOW IS THAT WE
3 IDENTIFIED A SNIPPET OF A [REDACTED] EXPERIMENT IN A POWERPOINT THAT
4 GOOGLE PRODUCED WHICH HAD INFORMATION ABOUT ADS.

5 SO WE'RE ASKING GOOGLE IF THEY PRODUCED ALL OF THESE
6 RESPONSIVE EXPERIMENTS, AND GOOGLE'S RESPONSE TO US IS NOW A
7 CATCH-22, WHICH IS, YOU HAVE TO IDENTIFY THESE EXPERIMENTS.

8 WE'RE UNABLE TO DO THAT.

9 WE'RE HAPPY TO WORK WITH GOOGLE ON IDENTIFYING SPECIFIC
10 EXPERIMENTS THAT WE'D LIKE PRODUCED, BUT WE DO NEED GOOGLE'S
11 COOPERATION IN IDENTIFYING THOSE EXPERIMENTS FIRST.

12 THE COURT: ALL RIGHT. YOU'LL GET MY RULING. THANK
13 YOU.

14 ALL RIGHT. THOSE ARE THE OPEN ISSUES FOR BROWN, AND WE'LL
15 MOVE TO CALHOUN.

16 MS. TREBICKA: YOUR HONOR, THIS IS VIOLA TREBICKA FOR
17 GOOGLE.

18 BEFORE WE MOVE ON TO CALHOUN, MAY I BE HEARD ON AN ISSUE
19 THAT AROSE LAST NIGHT?

20 THE COURT: NOT AT THIS TIME. PERHAPS AT THE END.

21 MS. TREBICKA: OKAY. THANK YOU. I APPRECIATE IT.

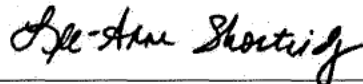
22 THE COURT: ALL RIGHT. THANK YOU.

23 (THE PROCEEDINGS WERE CONCLUDED AT 10:27 A.M.)
24
25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORDED ZOOM PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.



LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

DATED: MAY 10, 2022